

## Consumer Product Safety Commission

## § 1120.3

amount of the penalty. A person's history of noncompliance may be indicated by, for example, multiple violations of one or more laws or regulations that the CPSC enforces, including repeated violations of the same law or regulation. History of noncompliance may include the number of previous violations or how recently a previous violation occurred.

(3) *Economic gain from noncompliance.* The Commission may consider whether a person benefitted economically from a failure to comply, including a delay in complying, with the CPSA, FHSA, FFA, and other laws that the CPSC enforces, and the regulations thereunder.

(4) *Failure to respond in a timely and complete fashion to the Commission's requests for information or remedial action.* The Commission may consider whether a person's failure to respond in a timely and complete fashion to requests from the Commission for information or for remedial action should increase a penalty. This factor is intended to address a person's dilatory and egregious conduct in responding to written requests for information or remedial action sought by the Commission, but not to impede any person's lawful rights.

### § 1119.5 Enforcement notification.

A person will be informed in writing if it is believed that the person has violated the law and if the Commission intends to seek a civil penalty. Any person who receives such a writing will have an opportunity to submit evidence and arguments that it should not pay a penalty or should not pay a penalty in the amount sought by the Commission.

## PART 1120—SUBSTANTIAL PRODUCT HAZARD LIST

Sec.

1120.1 Authority.

1120.2 Definitions.

1120.3 Products deemed to be substantial product hazards.

AUTHORITY: 15 U.S.C. 2064(j).

SOURCE: 76 FR 37640, June 28, 2011, unless otherwise noted.

### § 1120.1 Authority.

Under the authority of section 15(j) of the Consumer Product Safety Act (CPSA), the Commission determines that consumer products or classes of consumer products listed in § 1120.3 of this part have characteristics whose existence or absence present a substantial product hazard under section 15(a)(2) of the CPSA. The Commission has determined that the listed products have characteristics that are readily observable and have been addressed by a voluntary standard, that the voluntary standard has been effective, and that there is substantial compliance with the voluntary standard. The listed products are subject to the reporting requirements of section 15(b) of the CPSA and to the recall provisions of section 15(c) and (d) of the CPSA, and shall be refused entry into the United States under section 17(a)(4) of the CPSA.

### § 1120.2 Definitions.

The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this part 1120.

(a) *Substantial product hazard* means a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) *Hand-supported hair dryer* means an electrical appliance, intended to be held with one hand during use, which creates a flow of air over or through a self-contained heating element for the purpose of drying hair.

(c) *Drawstring* means a non-retractable cord, ribbon, or tape of any material to pull together parts of upper outerwear to provide for closure.

[76 FR 37640, June 28, 2011, as amended at 76 FR 42507, July 19, 2011]

### § 1120.3 Products deemed to be substantial product hazards.

The following products or class of products shall be deemed to be substantial product hazards under section 15(a)(2) of the CPSA: